

Appl. No. 09/497,279
Reply to Office Action of August 13, 2003

REMARKS/ARGUMENTS

Claims 1-27 are pending. In light of the amendments and following remarks, Applicant believes all the claims are in condition for allowance.

Claim 10 was rejected under 35 USC § 112, second paragraph, as allegedly not distinctly claiming the invention. More specifically, it was queried how background processes can execute when they are deferred in claim 1. Applicant has clarified claim 1 to recite that at least one background process has its execution deferred. As it is clear now that not all background processes may have their execution deferred, the rejection of claim 10 is overcome.

Claims 1-4, 7, 13-16, and 24-27 were rejected under 35 USC § 102(e) as being allegedly anticipated by U.S. Patent No. 6,145,083, issued November 7, 2002 to Shaffer et al. (hereinafter "Shaffer"). There it is alleged that Shaffer discloses all the features of the claims. For the following reasons, Applicants respectfully traverse the rejection.

Although Shaffer discloses pioneering technologies that can be very beneficial for computer telephony, it has not been shown that Shaffer discloses deferring execution of at least one background process during a computer telephony call as claimed. Instead, the Office Action describes that Shaffer teaches deferring execution of a screen saver program.

A screen saver program is not a background process. As described in the specification, a background process is a process that is not under the immediate interactive control of the user (see, e.g., page 6, lines 7-13). The screen saver program is instead a foreground process as it is in immediate interactive control of the user. Further evidence of this can be found upon a close review of Shaffer. As described therein, a problem with screen savers executing during computer telephony calls is that

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they may be password protected, which can result in the computer being lockup up if the user does not know the password or can delay making or receiving a call even if the user does know the password (see, e.g., col. 1, line 56 to col. 2, line 34). Thus, a screen saver is not a background process.

As the Office Action has not shown that Shaffer discloses deferring execution of at least one background process during a computer telephony call as claimed, a prima facie case of anticipation has not been established. All the pending claims are allowable as they, at a minimum, include these features.

Claims 5-6, 8-9, 10-12, and 17-23 were rejected under 35 USC § 103(a) as being allegedly unpatentable over Shaffer in view of U.S. Patent No. 6,360,336, issued March 19, 2002 to Christensen et al. (hereinafter "Christensen"). These claims are dependent claims and it has not been shown that the secondary reference Christensen discloses deferring execution of at least one background process during a computer telephony call that was not shown to be in Shaffer. Accordingly, these claims are patentably distinct for at least the same reasons as above.

Conclusion

For the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. If any fees are due in connection with the filing of this amendment, the Commissioner is authorized to charge such fees to Deposit Account 19-2179 (Order No. 00P7437US).

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Respectfully requested,

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